

TWELFTH DAY
(Monday, February 2, 1981)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Vale, Williams, Wilson.

Absent-excused: Andujar.

A quorum was announced present.

The Reverend Dr. Gerald Mann, Senate Chaplain, offered the invocation as follows:

Our Father, remind us that people who think they can't do something are always right. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Thursday, January 29, 1981, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Andujar was granted leave of absence for today on account of illness on motion of Senator Meier.

REPORT OF STANDING COMMITTEE

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 9
S.B. 112
S.B. 119
S.B. 210 (Amended)
S.B. 17 (Amended)
C.S.S.B. 102 (Read first time)

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 315 by Wilson, Harris, Meier, Human Resources
Mengden, Ogg, Sarpalius, Brown
Relating to regulation of the practice of medicine; providing penalties.

S.B. 318 by Sarpalius Intergovernmental Relations
Relating to underground water rights of the Green Belt Municipal and Industrial
Water Authority.

S.B. 319 by Short Economic Development
Relating to the definition of "modular home" in the Texas Manufactured Housing Standards Act.

S.B. 320 by Parker Human Resources
Relating to pilot programs and services for deaf-blind multihandicapped individuals.

S.B. 321 by Mauzy State Affairs
Relating to collective bargaining rights of certain public employees.

S.B. 322 by Farabee, Caperton Finance
Increasing benefits paid to annuitants of the Teacher Retirement System of Texas.

S.B. 323 by Farabee, Caperton State Affairs
Amending Chapter 3 of the Texas Education Code, relating to the Teacher Retirement System of Texas, and providing for effective dates.

S.B. 324 by Mauzy Jurisprudence
Relating to mandatory workers' compensation coverage; providing a penalty.

S.B. 325 by Williams, Traeger Intergovernmental Relations
Relating to building a training facility for firemen with County bond funds.

S.B. 326 by Mauzy Jurisprudence
Relating to workers' compensation insurers' appointment of an agent for service of process and for receiving other communications.

S.B. 327 by Williams Intergovernmental Relations
Amending Section 1. (j), Acts 1979, 66th Legislature, Chapter 217 (Article 1970-110.c.4., Texas Revised Civil Statutes) providing for the random filing of cases in the County Criminal Courts at Law of Harris County, Texas; and declaring an emergency.

S.B. 328 by Mauzy Jurisprudence
Relating to workers' compensation death benefits.

S.B. 329 by Wilson Economic Development
Relating to the creation, administration, powers, duties, and financing of the Texas Public School Employees Group Insurance Program.

S.B. 330 by Mauzy Jurisprudence
Relating to workers' compensation benefits for general and specific injuries.

S.B. 331 by Traeger Economic Development
Relating to administration, coverage, and taxation under college and university employees health insurance.

S.B. 332 by Mauzy Jurisprudence
Relating to jurisdiction of the Industrial Accident Board over claims under voluntary workers' compensation insurance policies.

S.B. 333 by Santiesteban, Truan, Education
Parker, Ogg, Vale

Relating to the provision of textbooks for nonpublic school students; adding Section 12.05 to Chapter 12, Texas Education Code, as amended.

S.B. 334 by Mauzy Jurisprudence
Relating to application of general workers' compensation laws to certain special workers' compensation programs.

S.B. 335 by Williams, Doggett Human Resources
Relating to the State Board of Dental Examiners and to regulation, licensing, and certification of dentists, dental hygienists, dental technicians and assistants, and dental laboratories; amending Chapter 9, Title 71, Revised Civil Statutes of Texas, 1925, as amended, by amending Articles 4543, 4543a, 4544, 4545, 4545a, 4547, 4548f, 4548g, 4549, 4550, 4550a, 4551, 4551a, 4551c-1, 4551d, and 4551f, and by adding Articles 4549b, 4551e-1, and 4551k; amending Chapter 501, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 4548h, Vernon's Texas Civil Statutes); amending Sections 1, 2, 3, and 5, Chapter 475, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 4551e, Vernon's Texas Civil Statutes); repealing Articles 4548a, 4548b, 4548j, 4551d(1), and Section 6(b) of Article 4551f, Revised Civil Statutes of Texas, 1925, as amended; and repealing Sections 4A, 6-12, and 14, Chapter 475, Acts of the 52nd Legislature, 1951, as amended (Article 4551e, Vernon's Texas Civil Statutes).

S.B. 336 by Mauzy Jurisprudence
Relating to the awarding and payment of workers' compensation benefits.

S.B. 337 by Doggett State Affairs
Relating to abolition of the State Board of Library Examiners and regulation of county librarians by the Texas State Library and Archives Commission.

S.B. 338 by Mauzy Jurisprudence
Relating to workers' compensation settlement agreements.

S.B. 339 by Blake Economic Development
Relating to the requirement of personal injury protection coverage with certain liability insurance policies.

S.B. 340 by Mauzy Jurisprudence
Relating to the power of the Industrial Accident Board to order the association to make compensation and medical benefit payments in cases of emergency or impending necessity.

S.B. 341 by Caperton, Santiesteban Education
Relating to standards for the employment of public school professional personnel.

S.B. 342 by Mauzy Jurisprudence
Relating to application of the workers' compensation law to farm and ranch laborers.

S.B. 344 by Mauzy Jurisprudence
Relating to including volunteer firefighters, policemen, emergency medical personnel, and other volunteers specifically named under political subdivisions workers' compensation.

S.B. 346 by Mauzy Jurisprudence
Relating to workers' compensation death benefits.

S.B. 348 by Mauzy Jurisprudence
Relating to state funding for school district workers' compensation and unemployment compensation.

S.B. 350 by Mauzy Jurisprudence
Relating to workers' compensation benefits for hernias.

S.B. 352 by Mauzy Jurisprudence
Relating to the payment of workers' compensation benefits pending an appeal from a decision of the Industrial Accident Board.

S.B. 354 by Mauzy Jurisprudence
Relating to workers' compensation medical reports.

S.B. 356 by Mauzy Finance
Relating to a supplemental appropriation to the attorney general for the purpose of paying state employees' workers' compensation claims.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following resolutions:

S.C.R. 11
S.C.R. 23
S.C.R. 24

CO-AUTHOR OF SENATE BILL 120

On motion of Senator Howard and by unanimous consent, Senator Travis will be shown as Co-author of **S.B. 120**.

CO-AUTHOR OF SENATE BILL 122

On motion of Senator Brown and by unanimous consent, Senator Travis will be shown as Co-author of **S.B. 122**.

CO-AUTHOR OF SENATE BILL 123

On motion of Senator Brooks and by unanimous consent, Senator Travis will be shown as Co-author of **S.B. 123**.

CO-AUTHOR OF SENATE BILL 138

On motion of Senator Traeger and by unanimous consent, Senator Kothmann will be shown as Co-author of **S.B. 138**.

CO-AUTHOR OF SENATE BILL 205

On motion of Senator Harris and by unanimous consent, Senator Mauzy will be shown as Co-author of **S.B. 205**.

CO-AUTHOR OF SENATE BILL 222

On motion of Senator Jones and by unanimous consent, Senator Brooks will be shown as Co-author of S.B. 222.

CO-AUTHOR OF SENATE BILL 248

On motion of Senator Mengden and by unanimous consent, Senator Parker will be shown as Co-author of S.B. 248.

SENATE RESOLUTION 200

Senator Parker offered the following resolution:

WHEREAS, The citizenry of Port Arthur in Jefferson County annually express love and appreciation of their important city on Port Arthur Day, celebrated this year on Monday, February 2; and

WHEREAS, The settlement of Aurora, on the site of present-day Port Arthur, was known as early as 1840, just four years after Jefferson County was created from a Mexican municipality; the settlers there were forced by freezes and hurricanes to leave their fishing, trapping, and farming about 1890; the potential of the area caught the imagination of Arthur E. Stillwell, promoter and railroad executive, as an ideal location for a port and southern terminus for his company and bought 53,000 acres, of which 4,000 were designated for the townsite; and

WHEREAS, In 1895, crews began construction of homes, a hotel, a pleasure pier, loading docks, and a canal 25 feet deep in the shallow Sabine Lake to open the port to ocean vessels; port facilities were finished just in time, in 1901, to serve the huge quantities of oil from the Spindletop gusher when it came in, and this required still further additions to port installations; and

WHEREAS, Port Arthur became the center of one of the world's largest oil refining districts; it is Port Headquarters for the Port Arthur District, consisting of Beaumont, Orange, Sabine, and Lake Charles, Louisiana, in addition to Port Arthur, each year handling huge tonnages of oil imports and a variety of exports that include petroleum and paper products, chemicals, and wheat and sorghum grains; and

WHEREAS, Residents of Port Arthur, as well as tourists, enjoy a variety of healthy outdoor recreations at Sea Rim State Park, Pleasure Island, and the Gulf Beaches; quality of life in the area is enhanced by two adjacent wildlife refuges, the Sabine National and the J. D. Murphrey; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 67th Legislature, commend the justifiably proud citizens of Port Arthur and extend best wishes for a happy celebration of Port Arthur Day; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the City of Port Arthur in recognition of this fine occasion and as an expression of congratulations from the Senate of Texas.

The resolution was read.

On motion of Senator Parker and by unanimous consent, the resolution was considered immediately and was adopted.

GUESTS PRESENTED

Senator Parker was recognized and introduced to the Members a large delegation, seated in the Gallery, from Port Arthur and welcomed them as guests today.

SENATE RESOLUTION 199

Senator Williams offered the following resolution:

S.R. 199, Expressing gratitude to Dr. Wayne Mulloy, "Capitol Physician" for today.

The resolution was read.

On motion of Senator Williams and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE CONCURRENT RESOLUTION 30

The President laid before the Senate the following resolution:

H.C.R. 30, Expressing gratitude to the government of Algeria on role of freeing 52 American hostages.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE CONCURRENT RESOLUTION 26

The President laid before the Senate the following resolution:

H.C.R. 26, Commending the participants in the movie "The Acorn People".

The resolution was read.

On motion of Senator Richards and by unanimous consent, the resolution was considered immediately and was adopted.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
January 30, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE; REGULAR
SESSION:

Pursuant to Article III, Section 5 of the Constitution of Texas, I hereby submit as an emergency matter the following:

- 1). State inheritance taxes can be an onerous burden on families of persons who have died and who had worked all their lives to leave something for their families. This is particularly true with farming and ranching operations where a lot of land is involved. Changes in the state inheritance tax law is desirable and House Bill 325 by Geistweidt and others would do this, and I therefore declare this as an emergency matter so the House of Representatives may begin consideration of it.
- 2). The state is self-insured on the buildings owned by the state and when damage occurs to them it is customary to have an appropriation to repair them. Sul Ross State University has suffered structural damage to the classroom/administration building and House Bill 511 by McBee would appropriate money to make the repairs and I therefore declare this as an emergency. Also, Texas Tech University suffered some damage to buildings from fire, tornado, and windstorm, therefore I declare Senate Bill 156 by Short as an emergency matter for it appropriates money to repair the damage.
- 3). I have sent several emergency messages concerning raises for state employees and retired employees. State employees have a group insurance program that public school teachers do not have. I feel that the Legislature should give consideration to establishing a group insurance program for Texas Public School Employees, and House Bill 409 by Simpson would do this, and to allow the House of Representatives to begin consideration of this I, therefore, declare it as an emergency matter.
- 4). The Sunset Commission has recommended the abolishment of the Fleet Admiral Chester W. Nimitz Naval Museum Commission and the transferring of Nimitz Museum to the Parks and Wildlife Department. Since it is important that this take place before the Appropriations Bill is considered, and since the Nimitz Museum is agreeable to the move, I therefore declare House Bill 478 by Ceverha, which makes the transfer, as an emergency matter.
- 5). It is evident that there has arisen a need in some fast-growth areas of Texas for additional district courts to handle the increased load placed on the existing courts, to comply with the Speedy Trial Act. As long as the courts outlined following are created quickly and I am treated the same as all other governors have been in the appointment of new District Judges, I will sign legislation creating these courts. So the House of Representatives may begin immediate consideration of the most needed courts, I hereby declare as an emergency the creation of the following: 1) An additional court composed of Calhoun, DeWitt, Goliad, Jackson, Refugio, and Victoria Counties to be known as the 267th Judicial District as contained in House Bill 203 by Sharp and Senate Bill 219 by Wilson; and 2) creating an additional court in the 26th Judicial District in Williamson County as contained in Senate Bill 166 by Wilson and House Bill 144 by Kubiak.
- 6). In the appropriation process the Legislature appropriates funds to pay for purchased utilities at institutions of higher education. Unfortunately, in the past several years the cost of this has risen

faster than the Legislature reasonably anticipated and it appears there needs to be some supplemental appropriations to some of these institutions, and therefore I declare House Bill 623 by Presnal as an emergency matter, which makes the necessary supplemental appropriation.

- 7). During recent years there have been decisions that have seemed to subvert the original intent of the Employment Compensation Act. Benefits have been awarded to people who have voluntarily quit their jobs, to teachers who refused signing a contract to seek other employment and to people who have lost their jobs because of their own felonious conduct. It appears that consideration of changes are warranted and I therefore declare Senate Bill 2 by Blake as an emergency matter.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor

COMMITTEE SUBSTITUTE SENATE BILL 22 ON SECOND READING

Senator Traeger moved that Senate Rules 12 and 89 and Section 5 of Article III of the State Constitution be suspended and that C.S.S.B. 22 be taken up for consideration at this time:

C.S.S.B. 22, Relating to the number of peace officers certain navigation districts may appoint.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 22 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 22** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

SENATE BILL 48 ON SECOND READING

Senator Mauzy moved that Senate Rules 12 and 89 and Section 5 of Article III of the State Constitution be suspended and that S.B. 48 be taken up for consideration at this time:

S.B. 48, Relating to the date for holding county and senatorial district conventions of a political party.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

The bill was read second time and was passed to engrossment.

SENATE BILL 48 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 48 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

The bill was read third time and was passed.

SENATE BILL 49 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 49, Relating to the annual audit of funds appropriated for adult apprenticeship training programs.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend S.B. 49 by striking the quoted Subsection (d) on lines 7-9 and substituting the following:

(d) The State Auditor ~~[Comptroller of Public Accounts]~~ shall include ~~[perform an annual audit of]~~ all state funds appropriated to the Central Education Agency ~~[or received]~~ pursuant to this chapter in the periodic audits of the Central Education Agency. Funds received pursuant to this chapter by a school district or postsecondary institution are subject to audit as otherwise provided by law.

The committee amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 49 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 49** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Ogg.

Absent-excused: Andujar.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Andujar.

COMMITTEE SUBSTITUTE SENATE BILL 90 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 90, Relating to penalties for violation of the Deceptive Trade Practices and Consumer Protection Act which can be recovered by the State and to the limitations period for actions brought by the State.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 90 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 90** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Andujar.

The bill was read third time and was passed.

SENATE BILL 132 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 132, Relating to the jurisdiction of the Justice Courts in counties with a population of 1,500,000 or more.

The bill was read second time and was passed to engrossment.

SENATE BILL 132 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 132 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Andujar.

The bill was read third time and was passed.

SENATE BILL 73 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 73, Relating to surplus water diverted by Maverick County Water Control and Improvement District No. One.

The bill was read second time and was passed to engrossment.

SENATE BILL 73 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 73 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Andujar.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Andujar.

MEMORIAL RESOLUTIONS

S.R. 195 - By Farabee: Memorial resolution for Mr. Shirley Donnell.

S.R. 196 - By Farabee: Memorial resolution for Buster Harper.

S.R. 197 - By Farabee: Memorial resolution for Judge Henry Heck.

S.R. 198 - By Farabee: Memorial resolution for Fuller Shannon.

S.R. 201 - By Jones: Memorial resolution for W. P. "Bill" Sayles.

S.R. 202 - By Mauzy: Memorial resolution for Ken Smartt.